Fed. 288. Whether or not unpatented "ordinary commodities" may be controlled in this indirect way is doubtful; but the seals in the principal case were held not to be "ordinary commodities." *Cf. Cortelyou* v. *Johnson*, 145 Fed. 933; *Dick Co.* v. *Henry*, 149 Fed. 424. The sale of an article to one who uses it in violation of his license is not actionable, if the seller has no notice of the license. *Cortelyou* v. *Johnson, supra.* But one who sells with notice is guilty of contributory infringement. *Rupp & Wittgenfeld Co.* v. *Elliott*, 131 Fed. 730; *Thomson-Houston Electric Co.* v. *Kelsey Electric Ry. Specialty Co.*, 75 Fed. 1005. So liability is primarily dependent on knowledge. The courts have not made it clear whether the wrong consists in inducing the breach of a contract or in acting in concert with a tortfeasor. See *Heaton-Peninsular Button-Fastener Co.* v. *Eureka Specialty Co., supra; Tabular Rivet & Stud Co.* v. *O'Brien*, 93 Fed. 200; *Dick Co.* v. *Henry, supra.* The principal case, however, may be supported on either theory, and its result, though practically allowing a monopoly in an unpatented article, accords with previous decisions. See 12 HARV. L. REV. 35; 21 *ibid.* 150.

PUBLIC OFFICERS — ELIGIBILITY TO OFFICE — INCOMPATIBLE OFFICES. — *Held*, that the mayor of a city does not vacate his office by acting as a member of Congress. *Ohio* v. *Gebert*, 12 Oh. Cir. Ct. R. N. S. 274.

At common law one person can hold two offices unless they are incompatible. *Preston* v. *United States*, 37 Fed. 417. Offices are said to be incompatible when their duties are so numerous and exacting that the same person cannot perform them with ease and ability, or when they are so related that a presumption fairly arises that they cannot be executed by the same person with impartiality and honesty. See 6 BACON'S ABRIDGMENTS, Tit. Offices (K). Incompatibility does not consist in the physical impossibility to discharge the duties of both offices at the same moment. *People* v. *Green*, 58 N. Y. 295. But see *South Carolina* v. *Buttz*, 9 S. C. 156. But if one office is subordinate to the other, or if one is subject in some degree to the revisory power of the other, or if the functions of the two are inherently inconsistent and repugnant, they are incompatible. *State* v. *Goff*, 15 R. I. 505. In the present case, the laws enacted by Congress do not affect the powers and administration of the office of mayor, nor is the administration of the office of mayor subject to the review of Congress. Therefore the offices are not incompatible, and the acceptance of the second does not *ipso facto* operate as a surrender of the first. *Bryan* v. *Cattell*, 15 Ia. 538.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST LAW — STANDARD OIL COMPANY'S CASE. — The majority stock of twenty formerly competitive corporations, engaged in interstate commerce and in turn controlling many smaller companies, was jointly owned by the former holders of certificates in a previous trust. The majority stock of nineteen of these corporations was transferred in exchange for the stock of the twentieth, the Standard Oil Company of New Jersey, the capital stock of which was increased and the charter amended for this purpose. The business was then conducted by this corporation as a single enterprise. *Held*, that the transaction constitutes a combination in restraint of, and to monopolize, interstate commerce in violation of § 1 and § 2 of the Sherman Act. *U. S.* v. *Standard Oil Co. of N. J.*, 173 Fed. 177 (Circ. Ct., E. D. Mo., Nov. 20, 1909). See NOTES, p. 209.

RULE AGAINST PERPETUITIES — RULE AGAINST POSSIBILITY ON POSSIBILITY EXTENDED TO EQUITABLE ESTATES. — An estate in trust under a settlement was appointed to unborn children for their lives, with a remainder to the children of such children. The appointment under the devise satisfied the rule against perpetuities. *Held*, that the appointment is invalid. *In re Nash*, [1909] 2 Ch. 450.

This decision is an application of a rule of law affecting the validity of contingent remainders, to equitable estates analogous to contingent remainders. In

general, a court of chancery, allowing beneficial interests in land similar to legal estates, follows the law in regard to the limitation of such legal estates, unless the strictly legal questions of tenure or seisin are involved. See *Burgess* v. *Wheate*, 1 Eden, 177, 223. Thus the rule in Shelley's case defeats the intention of the grantor of equitable estates, if the conditions for the application of the rule are satisfied. *Webb* v. *The Earl of Shaftesbury*, 3 M. & K. 599. And the operation of the rule against perpetuities limits the creation of remote equitable estates. *In re Finch*, 17 Ch. Div. 211, 229. Therefore the rule against "double possibilities," which will not allow, after a limitation to an unborn person for life, a remainder to his unborn children, is treated in the principal case not only as subsisting, but as "embodying a useful and intelligent restraint." Hence it is unnecessary to review the adverse criticism to which this legal rule, now well established in England, has been subjected. See GRAY, RULE AGAINST PERPETUITIES, 2 ed., §§ 124–134, 191–199, 285–298; 16 HARV. L. REV. 294.

SALES — RIGHTS AND REMEDIES OF BUYERS — RE-SALE ON ACCOUNT OF SELLER. — The buyer notified the seller that he would not accept paper delivered by a carrier, as it was not the kind ordered. Receiving no instructions as to the disposal of the paper, the buyer, after notice to the seller, sold the paper on account of the latter. *Held*, that the seller is entitled to recover the contract price. *Estes* v. *Conestoga Paper Co.*, 26 Lan. L. Rev. 348 (Pa., C. P. Lancaster County, July 10, 1909).

The buyer need not accept goods of a description different from those ordered; for he is not bound to accept what he did not agree to buy. *Pope* v. *Allis*, 115 U. S. 363; *Vigers Brothers* v. *Sanderson Brothers*, [1901] 1 K. B. 608. Since the goods have been thrust upon him, he is not even obliged to return them, if he notifies the seller that he rejects them. *Grimoldby* v. *Wells*, L. R. 10 C. P. 391. But acts of dominion, even after notice of rejection, generally prove the buyer's intent to take title to the goods as offered. *Cream City Glass Co.* v. *Friedlander*, 84 Wis. 53. On this ground a re-sale by the buyer renders him liable for the contract price. But if the re-sale is made unequivocally, and with legal authority, on account of the seller, payment of its net proceeds discharges the buyer. *Barnett & Co.* v. *Terry & Smith*, 42 Ga. 283. The legal authority to re-sell has been described as an agency implied by necessity. See *Strauss* v. *National Parlor Furniture Co.*, 76 Miss. 343. It is more accurately explained as being attached by law to the buyer's position of involuntary bailee, to be exercised diligently whenever reasonably necessary to diminish the seller's liability for storage charges. It should not be arbitrarily restricted, as in the principal case, to instances of perishable goods. See *Rubin* v. *Sturtevant*, 80 Fed. 930. *Cf. Strauss* v. *National Parlor Furniture Co.*, *supra*.

TRUSTS — RESULTING TRUSTS — EFFECT OF ANNULMENT OF MARRIAGE UPON PRESUMPTION OF ADVANCEMENT TO WIFE. — A husband purchased a house in the joint names of himself and wife, telling his wife that it was intended for their joint habitation and would ultimately belong to the survivor. Subsequently, the wife obtained a decree declaring the marriage "to have been and to be" null and void. *Held*, that the wife holds her interest as an advancement, and not subject to a resulting trust for the husband. *Dunbar* v. *Dunbar*, 26 T. L. R. 21 (Eng., Ch. D., Oct. 21, 1909).

It has always been undisputed law that the Statute of Frauds does not prevent a resulting trust when A supplies the consideration for land conveyed by B to C. *Ex parte Vernon*, 2 P. Wms. 549. And it has been equally well settled that the presumption of a trust is displaced by the presumption of an advancement when C is the child or wife of A. *Mumma* v. *Mumma*, 2 Vern. 19; *Dummer* v. *Pitcher*, 2 Myl. & K. 262. But the presumption in either case is not conclusive, and parol evidence is admissible to show the real intent. *Faylor* v. *Faylor*, 136 Cal. 92. The presumption of an advancement for the wife persists despite